

**COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS
MINUTES**

May 12, 2009

10:00 AM –2:00 PM

Conference Room 119 A/B, State Courts Building,
1501 W. Washington St., Phoenix, Arizona

MEMBERS PRESENT

Barbara Appenzeller, CPA
Allison Bones
Lt. Mark Carpenter
Joan Fox, DDS
Professor Zelda Harris
Laura Horsley
Honorable Lynda J. Howell
Bridget Humphrey, Esq.
Honorable Joseph P. Knoblock
Honorable Dennis Lusk
Patricia Madsen, Esq.
Honorable Daniel G. Martin
Leah Meyers, GOCYF/DFW
Honorable Wendy Million
Chief Jerald Monahan
Honorable William O’Neil, Chair
Doug Pilcher
Catherine Shugrue-Schaffner, Esq.
Renaë Tenney
Tracey Wilkinson

TELEPHONIC

Cheryl L. Karp, Ph.D.
Honorable Cathleen Brown Nichols
Honorable Kristi Youtsey Ruiz

MEMBERS ABSENT

Commander Scott Mascher
Honorable Jack Peyton
Ms. Marla Randall

STAFF

Kay Radwanski
Lorraine Nevarez

GUESTS

Chief Justice Ruth V. McGregor
Stephanie Mayer, AzCADV
Theresa Barrett, AOC
Gloria Full
Kendra Leiby, AzCADV
Janet Scheiderer, AOC
Honorable Elizabeth Finn

I. CALL TO ORDER

A. Welcome and Opening Remarks

Judge O’Neil, Chair, called the May 12, 2009, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) to order at 10:12 a.m. Judge O’Neil welcomed the members.

B. Approval of Minutes from February 3, 2009

Minutes of the February 3, 2009, meeting of the Committee on the Impact of Domestic Violence and the Courts were presented for approval.

MOTION: Motion was made and seconded to approve the February 3, 2009, meeting minutes. Motion passed unanimously.

II. E-Filing and Protective Orders

Ms. Cindy Cook, Administrative Office of the Courts (AOC), presented the TurboCourt e-filing project. This project is currently developing forms such as Orders of Protection and Injunction against Harassment that will be available for print by petitioners. The TurboCourt e-filing project will allow petitioners to fill out the petition electronically and have it waiting in a queue for retrieval when the petitioner arrives at the court. This endeavor is scheduled for the second phase of the e-filing project to allow the AOC more time to spend on the development of forms and language. As the members of this committee are experts in this area, the AOC would appreciate any input the committee can provide on the forms and language they think should be included for e-filing.

The committee established a workgroup to assist the e-filing project. The members included the following:

- Honorable Elizabeth Finn, Workgroup Chair
- Ms. Tracey Wilkinson
- Bridget Humphrey, Esq.
- Patricia Madsen, Esq.
- Ms. Summer Dalton
- Honorable Lynda J. Howell
- AZCADV Member
- Judge Dennis Lusk

MOTION: To authorize the CIDVC Forms and Processes Workgroup to collaborate with the AOC to develop intelligent forms and language for the electronic filing of protective orders. Motion was approved unanimously.

III. Domestic Violence Related Fatalities 2008

Ms. Stephanie Mayer, Arizona Coalition Against Domestic Violence (AzCADV), presented on the 2008 report of domestic violence related fatalities, trends over the last four years and conclusions from the report. Ms. Mayer noticed that Arizona is on the top ten list in domestic violence homicides. Ms. Mayer explained the importance of having coordinated efforts to close systems gaps by reviewing policies and procedures to make sure they focus around best practices. The report can be viewed on the coalition website.

IV. Legislative Update

Ms. Kendra Leiby, Arizona Coalition Against Domestic Violence (AzCADV), discussed the coalition's legislative priorities and the status of pending legislation. Currently, the legislature is focusing on the FY'10 budget. Some bills have moved through the House and are waiting to transfer to the Senate. No bills have moved through the Senate.

Some bills that may move before the end of session are the following:

- SB#1049--Fingerprinting (sponsored by Senator Linda Gray). There has been no movement on it. However, there is an outcry to act on this bill because it needs to comply with federal law in order for the state not to lose \$150 million in federal funding.
- HB2474--Regarding storage of firearms in motor vehicles on private property. Under this bill, a private property owner could not prohibit a person who lawfully owns a firearm from storing the weapon in a locked motor vehicle on the owner's property

The coalition is in the process of amending the child custody bill that affects A.R.S. § 25-403. The amendment to SB 1106 would add an eleventh custody factor regarding whether there has been domestic violence or child abuse as defined in section 25-403.03 and also deleting requirements for written finding of facts. A proposal to change the standard for rebutting the presumption that custody should not be awarded to a parent who has committed domestic violence will be withdrawn. The proposal would have raised the current standard (by a preponderance of the evidence) to clear and convincing evidence.

V. Domestic Violence Training Summit

Honorable Elizabeth Finn, Glendale City Court, discussed the plans for the upcoming Arizona Domestic Violence Training Summit that the Glendale Police Department is sponsoring on Tuesday, October 6, 2009, at the Glendale Civic Center. The Glendale Police Department, in partnership with the Administrative Office of the Courts (AOC), Arizona Coalition Against Domestic Violence, and other partners, received a STOP Grant award from the Governor's Office to fund the conference. The conference will feature nationally recognized speakers addressing critical and time relevant topics such as protective order issues, assessment, coordinated community responses, stalking, technology, strangulation, sexual assault, teen dating, custody and DV, specialized DV courts and more. A second training opportunity--a satellite broadcast--also will be funded by the grant.

NOTE: Chief Justice Ruth V. McGregor joined the meeting to give Judge O'Neil a certificate of appreciation for all his service and contributions to CIDVC during his six years as chair of the committee. Judge O'Neil's term expires June 30, 2009, at which time he will step down as chair. She also thanked committee members for their service to the Supreme Court during her tenure as chief justice.

VI. Protective Orders and Public Access

Kay Radwanski, Administrative Office of the Courts, presented information regarding internet access to protection orders. To comply with the federal Violence Against Women Act, plaintiff information in protection order cases was removed recently from the Arizona Judicial Branch Public Access website. The issue has been raised as to whether all protective order cases should be removed from the Public Access website. Removal of the information from the website does not affect the public's ability to inspect a file in person at the court. This question was presented to the Limited Jurisdiction Committee (LJC) and the Committee on Superior Court (COSC), and the recommendations of those committees were presented to CIDVC for consideration. LJC members recommended removal of all protective order case information from the website. COSC members recommended that access be limited to those cases in which an order had been affirmed or modified after a contested hearing.

Committee comments included:

- Maintenance of the status quo will not affect the STOP Grant.
- The committee cannot make a judgment on what information should be published on public access.
- If SB327 (currently pending in Congress) moves forward, it will require stricter regulations that will not allow publication of information regarding the issuance, modification, extension, and enforcement of a protection order.
- The committee should consider no access to protective order information as these cases are different from other case types.

After much discussion, the committee voted to maintain the status quo by publishing defendants' information and case history on the Arizona Judicial Branch Public Access website. The recommendations of all three committees will be forwarded to the AOC's Executive Office for consideration.

MOTION: To maintain status quo by publishing the defendants' information and case history on the Arizona Judicial Branch website. Motion approved and seconded. Vote: 22-1-0.

VII. U.S. v. Hayes

Ms. Leah Meyers, Governor's Office for Children, Youth, and Families, discussed the recent decision of the U.S. Supreme Court in the case of U.S. v. Hayes. This case concerns misdemeanor domestic violence offenses and the Lautenberg amendment to the federal Gun Control Act. Ms. Meyers reported that the Supreme Court decided that the criminal statute does not have to include a relationship test for the Lautenberg weapons prohibition to apply. However, the Supreme Court noted that use of the force is an element that must be considered.

VIII. 2010-2015 Strategic Agenda Planning

Ms. Janet Scheiderer, Administrative Office of the Courts (AOC), presented on the next Judiciary Strategic Agenda for Arizona's Courts 2010-2015. The Arizona Judicial Branch has begun development of its Strategic Agenda 2010-2015 process and is seeking input from committee members. Planning of the next Strategic Agenda has been under way even before the Chief Justice announced her retirement. Ms. Scheiderer communicated that recommendations and suggestions are all welcomed but must be received before the August deadline. Committee members have access to the Collaboration Tools website and can make comments online at www.sp2010.courts.az.gov.

The committee established a workgroup to provide input for the Strategic Agenda for the Arizona Judicial Council's consideration. The members include:

- Ms. Allison Bones
- Professor Zelda Harris
- Patricia Madsen, Esq.
- Honorable Cathleen Brown Nichols
- Honorable Joseph P. Knoblock
- Bridget Humphrey, Esq.

MOTION: The members of this workgroup are directed to act as an ad hoc group representing the Committee on the Impact of Domestic Violence and the Courts in contributing input for the draft of the Strategic Agenda for Arizona's Courts 2010-2015. The ad hoc group is charged with crafting a consolidated set of inputs to the Arizona Judicial Council for its consideration not later than August 2009. The motion was seconded and approved unanimously.

IX. Forms Change Discussion

The chair presented on the concern that additional language be added to the front of the protective orders to indicate that modification of an order does not change its expiration date. The committee agreed to add the word "original" to the section titled "Warnings to Defendant" so it reads: This Order is effective for one year from date of original service. The change also will affect the injunctions.

MOTION: To modify language on the protective order forms as proposed. Motion was seconded and approved unanimously.

X. Workgroup Reports

- A. DV Forms and Process Workgroup (Hon. Elizabeth Finn, Chair) – No update at this time.
- B. Best Practices (Honorable Wendy Million) – The workgroup is developing a best practice guide in response to the Morrison Institute Report. The workgroup has broken the report into four sections and is addressing ways to apply best practices to the different sections. The workgroup would like to publish the best practices guide on the Wendell website.
- C. DV Education Workgroup (Ms. Allie Bones) – No update at this time.

XI. Call to the Public

No public comment.

XII. Adjournment

The meeting was adjourned at 1:45 p.m.

Next Meeting:

September 15, 2009

10:00 a.m. – 2:00 p.m.

State Courts Building, Conference Room 119 A/B